Remarks

Claims 1-6, 12-17, 20-26, and 68-152 are pending in this application. Claims 7-11, 18, 19 and 27-67 have been canceled. Applicants reserve the right to pursue the subject matter of the canceled claims in one or more continuation or divisional applications. Claims 1-6, 12-17, 20-22, 24 and 25 have been amended in response to the Examiner's restriction. Applicants reserve the right to present all canceled subject matter in one or more divisional or continuation applications. New claims 68-152 have been added, drawn to elected subject matter.

Applicants provisionally elect to pursue claims of group III, directed to aptamers binding coagulation factor IX, with traverse. Applicants have canceled claims 7-11, 18, 19 and 27-67, and amended claims 1-6, 12-17, 20-22, 24 and 25 to cancel the non-elected subject matter. However, Applicants reserve the right to pursue additional claims to the non-elected subject matter in one or more continuation or divisional applications. The Examiner has also requested that Applicants elect a species to begin prosecution. Applicants elect SEQ ID NO:3, with the understanding that the Examiner will broaden the search and prosecution once that sequence is found allowable.

Applicants include claims drawn to groups III and IV, as identified by the Examiner. The Examiner has indicated that, upon allowance of linking claim 1, the restriction between groups I-VIII will be withdrawn. Applicants also note that coagulation factors IX and IXa are not "different gene products," but instead are a gene product and a truncate thereof.

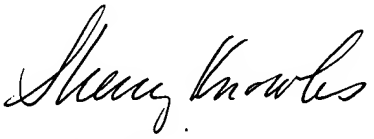
Applicants traverse the restriction between the product claims (Group III) and related method claims (Group IX), described by the Examiner on page 5 of the Office Action. The Examiner admits that the inventions are related as product and process, but states that if a product can be used in a "materially" different process than that claimed process, the inventions are distinct. The claimed aptamer is a specific nucleic acid sequence that is selected based on its ability to bind to Factor IX or Factor IXa. The Examiner appears to suggest that, because the aptamer might be useful in an experimental setting for *in situ* hybridization, the therapeutic methods of use of such an aptamer should be separately patentable. Applicants respectfully

disagree. During in situ hybridization, the aptamer binds to its binding partner, in this case, Factor IX or Factor IXa, because that is how it is made. The fact that the coagulation factor has been inactivated by fixation does not change the properties of the aptamer.

Suggesting that an experimental setting is a "materially different method" from the therapeutic use is a suggestion that an *in vitro* model is a wholly different invention from the disease it is modeling. With respect, Applicants point out that the U.S. Patent Office disfavors "throw away" utilities such as research tools. In this case, an *in situ* hybridization is nothing more than a research model of what occurs in the blood stream *in vivo*. Thus we respectfully request that the Examiner reconsider this aspect of the restriction requirement.

Applicants also submit a supplemental Information Disclosure Statement, U.S.P.T.O. Form 1449 and accompanying references to the Examiner. In view of the foregoing remarks, Applicants respectfully submit that the application is in condition for continued prosecution.

Respectfully submitted,



Sherry M. Knowles
Registration No. 33,052

KING & SPALDING
191 Peachtree Street
Atlanta, Georgia 30303
Telephone: 404-572-3541
Facsimile: 404-572-5145